

MINUTES  
EAGLE MOUNTAIN CITY COUNCIL MEETING

February 17, 2015

**Work Session 4:00 p.m. Policy Session 7:00 p.m.**

Eagle Mountain City Council Chambers, 1650 East Stagecoach Run, Eagle Mountain, Utah 84005

**4:00 P.M. WORK SESSION – COUNCIL CHAMBERS**

ELECTED OFFICIALS PRESENT: Mayor Chris Pengra, Councilmembers Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Paul Jerome, Assistant City Administrator/Finance Director; David Mortensen, City Treasurer; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy City Recorder; Ikani Taumoepeau, Economic Development Director; Dave Norman, Public Works Director; Adam Ferre, Energy Director; Steve Mumford, Planning Director; Kent Partridge, Building Official; Linda Peterson, Public Information Director; Rand Andrus, Fire Chief; Eric McDowell, Sheriff's Deputy.

Mayor Pengra called the meeting to order at 4:07 p.m.

1. CITY ADMINISTRATOR INFORMATION ITEMS – This is an opportunity for the City Administrator to provide information to the City Council. These items are for information and do not require action by the City Council.

- A. Presentation – Unified Fire Authority Community Wildfire Plan by Captain Riley Pilgrim

Chief Andrus introduced Capt. Pilgrim, who is in charge of the wildland program at Camp Williams, and Brianna Binnebose, the urban interface coordinator for the Wasatch Front area. Capt. Pilgrim described the Community Wildfire Protection Plan, which identifies community needs, high-risk areas and resources for prevention and response. Ms. Binnebose explained that her office handles pre-suppression activities to prevent fires and minimize their impacts. They provide education to residents and visitors, and minimize wild-growing fuels like sagebrush and cheat grass. This aids firefighters in suppressing fires and reduces costs.

Mayor Pengra offered to post the Protection Plan document on the City's website and in social media for the benefit of residents.

2. AGENDA REVIEW – The City Council will review items on the Consent Agenda and Policy Session Agenda.

**12. Evans Ranch Phase A Preliminary Plat**

Mr. Mumford said this project is near Porter's Crossing. Phases B-1 to B-3 are already approved. Fencing is an issue in this phase. Various fencing styles are planned for buffering between residential lots, trail areas, the Tickville Wash and public open space. The developer is required to provide the fencing. Nate Shipp of DAI noted that, in the Planning Commission meeting, the fencing for Phases B-1 and B-2 was discussed, and he committed to building the fencing required in the agreement. Mayor Pengra asked what time frame the agreement required. Mr. Mumford said it needs to be installed with the of the infrastructure.

Discussion ensued as to whether the fencing behind the lots should be built as part of the development as a whole or with each lot.

The proposed park improvements include a pickleball court, which prompted quite a bit of discussion. Mr. Shipp discussed other open space improvements, as well, including how to manage Tickville Wash.

Mayor Pengra brought up a discussion he and Mr. Shipp had regarding possibly using impact fee funds for development of Tickville Wash. Mr. Shipp said he was prepared to meet the requirements of the City Code, but he would like to do higher-level work, which would require City cooperation in the form of impact fee funds.

Mayor Pengra said he had a meeting with Hawk Watch International, which is a group dedicated to preserving habitat for hawks. The Tickville Wash is unique hawk habitat. Mr. Shipp said he was more concerned with residents' safety, but was a bird lover, too. Mayor Pengra said there are some inexpensive ways to maintain the hawk habitat at the wash.

### 13. Rocky Mountain Power Utility Sale Agreement

City Attorney Jeremy Cook stated that the agreement has gone through several versions recently. He reported that an agreement has been finalized with Lower Valley Energy to take over Eagle Mountain's allotment of the Horse Butte wind power agreement. There may be an alteration to the Public Works Building plat. The easement list and inventory list are being finalized. Drafts have been circulating as late as this afternoon. Mr. Cook believed it was very close to final form.

Councilmember Bradley asked for a final list of the financial numbers.

Mr. Cook said the Rocky Mountain Power base purchase price is \$21 million, which includes all the electric facilities, the Public Works Building, the north substation site with some additional property, the south substation site, existing electric utility vehicles and trailers, and assignment and apportionment of all utility easements.

The City's cost for terminating the Horse Butte agreement will be \$2,610,000, plus ½ of the \$1,000 daily subsidy until the closing date, up to \$15,000. The City will need to pay \$155,000 of the cost of the shell hedges through UAMPS. Rocky Mountain Power will pay the remainder of the \$289,000 to be paid for the hedges.

Councilmember Westmoreland inquired about the timing of closing the Horse Butte agreement.

Mr. Cook responded that Eagle Mountain has been working for months to resolve that agreement and has spoken to several entities. Lower Valley is the only entity that has been interested in buying the whole 5 megawatts. It has taken a couple of months to negotiate a price.

Councilmember Bradley asked when the City entered into the Horse Butte agreement and how much is owed. Mr. Cook said it began in 2010.

Councilmember Bradley asked for the total owed on the gas and electric bonds. Mr. Jerome said they total about \$27 million. Lewis Young (LYRB) is working to settle the bonds without a loss to the City.

The Questar agreement involves only one hedge, which will expire at the end of March. Questar has agreed to pay that off. The City needs to acquire two small pieces of property and one easement for Questar. The cost will be less than \$30,000.

Mr. Cook noted that the City will incur about \$250,000 in incidental costs such as meters, surveying and employee benefits.

Mayor Pengra asked if the Rocky Mountain Power plat has been finalized. Jeff Richards of Rocky Mountain Power said that he believes they've agreed to move the back line of the property. The City will grant RMP an easement to use the City's road.

Mayor Pengra asked if there had been any discussion of a first right of refusal if RMP ever chose to sell the property. Mr. Cook said it's been discussed internally, but not with RMP.

#### 14. Asset Purchase Agreement with Questar

Mr. Cook stated that the purchase price for the gas facilities and inventory is \$11.4M. No vehicles are included, but it does include a couple of trailers. It includes five regulators and one tap, as well as complete and apportioned easements. The new gas line installed in 2013 is located in an old Kern River easement that the Water Dept. bought for a water line. A gas line was installed instead. Eagle Mountain is reserving the right to install a water line in the future.

Mr. Jerome explained that the Electric Fund owes the Gas Fund, so the Gas Fund balance will be transferred to the Electric Fund.

3. ADJOURN TO A CLOSED EXECUTIVE SESSION – The City Council will adjourn into a Closed Executive Session for the purpose of discussing reasonably imminent litigation and the purchase, lease or exchange of real property pursuant to Section 52-4-205(1) of the Utah Code, Annotated.

No Closed Executive Session was held.

The meeting was adjourned at 5:44 p.m.

### **7:00 P.M. POLICY SESSION – CITY COUNCIL CHAMBERS**

ELECTED OFFICIALS PRESENT: Mayor Chris Pengra, Councilmembers Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland.

CITY STAFF PRESENT: Ifo Pili, City Administrator; Paul Jerome, Assistant City Administrator/Finance Director; David Mortensen, City Treasurer; Jeremy Cook, City Attorney; Fionnuala Kofoed, City Recorder; Melanie Lahman, Deputy City Recorder; Ikani Taumoepeau, Economic Development Director; Dave Norman, Public Works Director; Adam Ferre, Energy Director; Steve Mumford, Planning Director; Kent Partridge, Building Official; Linda Peterson, Public Information Director; Rand Andrus, Fire Chief; Eric McDowell, Sheriff's Deputy.

4. CALL TO ORDER

Mayor Pengra called the meeting to order at 7:05 p.m.

5. PLEDGE OF ALLEGIANCE

Boy Scouts from Troop 1251 led the Pledge of Allegiance.

6. INFORMATION ITEMS/UPCOMING EVENTS

- **Spring Soccer and Baseball Registration** – Registration for youth spring soccer and baseball is available now through March 4. Please check the City website, Recreation tab for program details and online registration.
- **Hunter's Education Class** – The Division of Wildlife Resources is offering a hunter's education class at City Hall on Saturday, February 21, from 8:00 a.m. to 11:30 a.m. For details, please visit the calendar on the City website.
- **Redwood Road and Bangerter Detours** -- As early as Thursday, Feb. 19, crews will perform bridge construction activities that will require lane restrictions and detours at Bangerter Highway and Redwood Road. This work will be conducted during **nighttime hours only** between 10:00 p.m. and 7:00 a.m., through late March. Motorists are strongly advised to watch for changing traffic patterns and reduced speed limits in the area. These detours will keep traffic moving smoothly and safely while crews are at work. More information about the project is available on the City website, News section.
- **Miss Eagle Mountain Scholarship Pageant Orientation** -- Young women ages 17-24 are invited to learn more about the Miss EM scholarship pageant this Saturday, February 21 at 10:30 a.m. at Rockwell High. It is a great way to earn money for college, serve the community and raise money for a charitable organization of their choice.

7. PUBLIC COMMENTS – Time has been set aside for the public to express their ideas, concerns and comments.

None.

8. CITY COUNCIL/MAYOR'S ITEMS – Time has been set aside for the City Council and Mayor to make comments.

Councilmember Steinkopf

Councilmember Steinkopf welcomed everyone to the meeting. He said the sale of the utility system has been a great example of cooperation during a long, complex process.

Councilmember Burnham

Councilmember Burnham thanked everyone involved in the utility sale agreements. She reminded residents to read the information that's been sent out about the transition from City electric and gas to RMP and Questar. She noted that two of the boards she's liaison to meet at the same time. She'll need to work that out.

Councilmember Ireland

Councilmember Ireland appreciated everyone attending the meetings. He especially liked seeing Boy Scouts attending the meeting. He was impressed with the long hours and hard work put in the utility sale agreements.

Councilmember Westmoreland

Councilmember Westmoreland appreciated representatives of RMP and Questar attending the meeting, as well as the Boy Scouts. He thanked everyone who put hard work into the utility sale agreements.

Councilmember Bradley

Councilmember Bradley welcomed everyone to the meeting. He thanked the City employees who worked hard on the sale of the utility system. He reminded everyone to continue to fight the relocation of the State Prison to Eagle Mountain. The City is still on the short list.

Mayor Pengra

Mayor Pengra echoed the thanks expressed by the Councilmembers for the residents and Scouts in attendance. He noted the efforts of City staff in all departments to complete the utility sale agreements.

9. APPOINTMENT

- A. Cemetery Board – Jared Gray

**MOTION:** *Councilmember Steinkopf moved to appoint Jared Gray to the Cemetery Board to complete a term ending on December 31, 2015. Councilmember Burnham seconded the motion. Those voting yes: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

City Recorder Fionnuala Kofoed administered the oath of office to Mr. Gray.

**CONSENT AGENDA**

10. MINUTES

- A. January 27, 2015 – Special City Council Meeting  
B. February 3, 2015 – Regular City Council Meeting

**MOTION:** *Councilmember Ireland moved to approve the Consent Agenda. Councilmember Steinkopf seconded the motion. Those voting yes: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

**SCHEDULED ITEMS**

11. MOTION – Consideration of a Preliminary Plat for Eagle Top, Phase 2.

This item was presented by Planning Director Steve Mumford. The proposed Eagle Top Phase 2 subdivision is 0.629 acres, includes four lots and is located next to the existing Eagle Top subdivision. A hillside drain will be built to connect into the storm drain system. In regard to open space, the Planning Dept. recommended that the developer pay a fee-in-lieu for improvements to the nearby Skyline Ridge park, rather than constructing a small park in Eagle Top 2.

Councilmember Steinkopf asked whether the hillside drain will be adequate. Mr. Mumford stated that he will talk to the City Engineer tomorrow and let him know that's a concern.

**MOTION:** *Councilmember Burnham moved to approve a preliminary plat for Eagle Top, Phase 2, with the conditions listed in the staff report. Councilmember Ireland seconded the motion. Those voting yes: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

The conditions listed in the staff report are as follows:

- 1) Provide front and side yard landscaping, and utilize masonry materials to meet the bonus density requirements for 4 dwelling units per acre.
- 2) Pay a park fee-in-lieu of \$12,603.65.
- 3) Demonstrate proper drainage from the hillside north of the project.
- 4) Install a sidewalk along Golden Eagle Road.
- 5) Install an inlet for the storm drain ditch where it meets Golden Eagle Road.

12. MOTION – Consideration of a Preliminary Plat for Evans Ranch, Phase A.

This item was presented by Planning Director Steve Mumford. This plat includes 26 lots on 10.67 acres that were included on the approved Evans Ranch Master Development Plan. The project includes 3.54 acres of open space.

Councilmember Westmoreland stated that tennis courts are typically fenced. He asked if the sport court would be fenced. Mayor Pengra said the plans show a four-foot chain link fence.

Councilmember Bradley asked what kind of fencing would be allowed between the houses. Mr. Mumford said it would depend on the HOA's requirements. The City doesn't enforce those, but the fencing will have to meet City standards.

Councilmember Ireland asked about responsibility for public open space maintenance. Mr. Mumford said the split rail fence and the trail will be City owned and maintained.

Mayor Pengra asked about the master development agreement. His recollection was that there was some discussion of the City participating in the cost of a regional park, because there is no regional park in The Ranches. It was determined that the cost of pulling back the wash for the sake of safety would run into millions of dollars. The City offered to use impact fees for equipment, but not for moving dirt.

Mayor Pengra asked what concessions the City made with the development agreement. Mr. Mumford said the City allowed smaller lot frontages for the coving concept.

Discussion ensued on alternatives for improved and unimproved open space, and on how to manage the Tickville Wash.

**MOTION:** *Councilmember Bradley moved to approve a preliminary plat for Evans Ranch, Phase A, with the conditions listed in the staff report, as well as a requirement that original lot owners who wish to opt out of rear fencing do so in writing, subject to staff review. Councilmember Burnham seconded the motion.*

Councilmember Ireland asked if this would set a precedent. Mr. Cook said it would not. The agreement is that the developer is required to build the fence. This action only allows residents to opt out.

Mayor Pengra noted that the development was approved with the understanding that there would be a fence. Councilmember Bradley asked why the Council was considering allowing residents to opt out. Mr. Cook said the developer made the request, and the Council has the prerogative to grant the request if it chooses to.

The Council discussed fencing. Mr. Mumford stated that several years ago, the City added language to the City Code requiring fencing along rear lot lines facing collector roads to be installed with the infrastructure. This was done to prevent the developer and builder from avoiding the responsibility.

*Those voting yes: Adam Bradley and Donna Burnham. Those voting no: Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion failed with a vote of 2:3.*

**MOTION:** *Councilmember Ireland moved to approve a preliminary plat for Evans Ranch, Phase A, with the conditions listed in the staff report. Councilmember Steinkopf seconded the motion. Those voting yes: Ryan Ireland, Richard Steinkopf and Tom Westmoreland. Those voting no: Adam Bradley and Donna Burnham. The motion passed with a vote of 3:2.*

The conditions listed in the staff report are as follows:

1. Fencing for the project must comply with the approved master fencing plan.
2. Open space and amenities must be fully improved by 50% of the building permits being issued in the development. A cash bond is required with plat recordation.
3. An open space proposal shall be submitted and approved along with or prior to approval of Phase D, showing how the overall reduction in open space will be resolved.
4. Building permit site plans must be submitted with utilities to help with proper driveway placement. No water meters are allowed in driveways.
5. No more than 50% of the length of a home can be between 10 and 15 feet of another residence. The approved setback exhibit (with the MDA) must be followed.
6. A cash bond shall be provided to the City prior to recording the plat totaling a minimum of \$22,060 (11.03 acres x 2,000 = \$22,060) to be spent on public amenities in the northern portion of the project, above and beyond the minimum park improvements shown in this plan. The improvements must be approved by the City. Developer shall make these additional improvements to the public open space and dedicate it to the City prior to 50% of the building permits issued in the single-family areas of the master plan.

13. AGREEMENT – Consideration of a Purchase and Transfer Agreement between Eagle Mountain City and PacifiCorp, Doing Business as Rocky Mountain Power (RMP).

This item was presented by City Attorney Jeremy Cook. Eagle Mountain City has determined that it is in the best interest of the City to transfer electric service and all of the transferred assets used to serve the electric customers with Eagle Mountain City to RMP. The proposed agreement documents the terms of the purchase and transfer of electric utility system and assets to RMP.

Mr. Cook gave a brief statement of the final version of the agreement, pending a few minor adjustments.

The purchase price is \$21 million. The assets purchased are all of the City's electric facilities, the Public Works building and yard area, vehicles and trailers, substations and easements. Eagle Mountain will need to divest several agreements. The Horse Butte wind power agreement will be transferred to Lower Valley Energy of Wyoming at a cost of \$4,190,000, with the cost to be shared by the City and RMP. Several hedge shell agreements will be divested, also with the costs being shared by the City and RMP.

Councilmembers were concerned that they were being asked to vote on the agreement, when they hadn't seen the final version yet. Councilmember Ireland asked Mr. Cook how to word the motion to accommodate that concern. Mr. Cook said the Council could table the agreement and hold a special meeting, perhaps next Tuesday; they could approve the agreement subject to staff approval of any changes; or they could approve the agreement subject to a redline copy of any changes being provided to the Council before the Mayor signs it, giving the Council an opportunity to review the changes, and not authorizing the Mayor to sign the agreement until all Councilmembers approve the changes.

**MOTION:** *Councilmember Ireland moved to approve a purchase and transfer agreement between Eagle Mountain City and PacifiCorp, doing business as Rocky Mountain Power (RMP) subject to a redline copy of any changes being provided to the Council before the Mayor signs it, giving the Council an opportunity to review the changes, and not authorizing the Mayor to sign the agreement until all Councilmembers approve the changes. Councilmember Bradley seconded the motion. Those voting yes: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

14. AGREEMENT – Consideration of an Asset Purchase Agreement between Eagle Mountain City and Questar Gas Company.

This item was presented by City Attorney Jeremy Cook. Eagle Mountain City has determined that it is in the best interest of the City to sell and transfer its natural gas distribution service and all of the transferred assets used in connection with the gas system to Questar Gas Company. The proposed agreement documents the terms of the purchase and transfer of the gas system and assets to Questar Gas Company. The purchase price is \$11.4 million for the gas facilities, including five regulator stations, one gas tap, and other equipment.

**MOTION:** *Councilmember Ireland moved to approve an asset purchase agreement between Eagle Mountain City and Questar Gas Company subject to a redline copy of any changes being provided to the Council before the Mayor signs it, giving the Council an opportunity to review the changes, and not authorizing the Mayor to sign the agreement until all Councilmembers approve the changes. Councilmember Burnham seconded the motion. Those voting yes: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

15. MOTION – Consideration of a Preliminary Plat for the Public Works Property.



This item was presented by Planning Director Steve Mumford. This subdivision creates a 2.2 acre parcel that is being sold to Rocky Mountain Power with the sale of the utility system. The property is located on the southwest end of Pony Express Parkway and includes the Public Works Building site, yard and future expansion area. The parcel will be fenced.

Mayor Pengra stated that RMP has agreed to consider granting the City first right of refusal if they choose to sell the property in the future. The plat will need a slight adjustment along the property, which Mr. Cook felt that staff could approve without bringing it back to Planning Commission and City Council for approval.

**MOTION:** *Councilmember Burnham moved to approve a preliminary plat for the Public Works property, with minor changes subject to staff approval. Councilmember Ireland seconded the motion. Those voting yes: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

16. MOTION – Consideration of a Preliminary Plat for the North Substation Property.

This item was presented by Planning Director Steve Mumford. This subdivision creates a 6.3 acre parcel that is being transferred to Rocky Mountain Power in conjunction with the sale of the utility system. The property is located east of the golf course, adjacent to the power corridor. The additional property that is included with the substation property will be used for future substation expansion and potential equipment storage.

**MOTION:** *Councilmember Burnham moved to approve a preliminary plat for the north substation property. Councilmember Steinkopf seconded the motion. Those voting yes: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

17. RESOLUTION – Consideration and Adoption of a Resolution of Eagle Mountain City, Utah, Authorizing an Escrow Agreement and Such Other Actions as Necessary to Effect Payment or Defeasance of Gas and Electric Bonds.

This item was presented by City Attorney Jeremy Cook. In conjunction with the defeasance of the City's gas and electric bonds, the City must enter into an escrow agreement with the trustee to hold sufficient funds to make payments on the bonds until the call date. The Resolution authorizes the Mayor to enter into the escrow agreement and take such other actions necessary to defease the bonds. The agreement will be set up through U.S. Bank.

**MOTION:** *Councilmember Burnham moved to adopt a Resolution of Eagle Mountain City, Utah, authorizing an escrow agreement and such other actions as necessary to effect payment or defeasance of gas and electric bonds. Councilmember Steinkopf seconded the motion. Those voting yes: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*

18. CITY COUNCIL/MAYOR'S BUSINESS – This time is set aside for the City Council's and Mayor's comments on City business.

Councilmember Steinkopf

No comment.

Councilmember Burnham

No comment.

Councilmember Ireland

No comment.

Councilmember Westmoreland

No comment.

Councilmember Bradley

No comment.

Mayor Pengra

Mayor Pengra thanked everyone for coming and staff for all their hard work. He acknowledged that the passing of these agreements will set the City on a different path.

19. CITY COUNCIL BOARD LIAISON REPORTS – This time is set aside for Councilmembers to report on the boards they are assigned to as liaisons to the City Council.

None.

20. COMMUNICATION ITEMS

A. Upcoming Agenda Items

21. ADJOURNMENT

**MOTION:**

*Councilmember Ireland moved to adjourn the meeting at 8:31 p.m.*

*Councilmember Bradley seconded the motion. Those voting yes: Adam Bradley, Donna Burnham, Ryan Ireland, Richard Steinkopf and Tom Westmoreland. The motion passed with a unanimous vote.*